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United States Senate

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 94TH CONGRESS)

WASHINGTON, D.C. 20510

March 23, 1978

IN REPLY PLEASE
REFER TO Q#2531

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Office of Legislative Counsel
Central Intelligence Agency
Washington, D.C.

Dear Bob:

As you know, we shall shortly be commencing hearings on S. 2525. I thought you might find it useful to know what our plans are in this regard and on which issues we hope to focus.

The hearings will be held in two parts. The first will focus on the purposes of future U.S. intelligence activities; the second will be concerned with the impact such activities have on constitutional rights of Americans and on American institutions. The first part of the hearings will commence on April 4 at 11:00 with testimony by Clark Clifford. The following day at 10:00 we shall hear from former Directors of Central Intelligence McCone, Colby, and Bush and former Deputy Director of Central Intelligence Knoche. The following three weeks will continue to focus on the first part of the hearings. Former Secretaries of State Rusk, Rogers, and Kissinger and former Under Secretary of State Ball have all been invited to testify but dates are not yet fixed.

In early or mid-May, we would hope to commence the second part of the hearings. We would hope that those hearings could open with testimony by former Attorney General Levy and former Solicitor General Bork, among others. Various academic legal experts and the ACLU would also be asked to testify. After several general hearings, we would probably hope to have hearings which specifically focused on, among other topics, the relationship of the intelligence community to the news media, to the clergy, and to academic institutions.

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From mid-May to late June there will probably be a hiatus in the hearings because at that time there is a very heavy schedule of appropriations mark-ups and both Senators Bayh and Huddleston are members of the Senate Appropriations Committee. In the latter part of June, the hearings would commence again and probably run through mid or late July. We would hope that at the end of the public hearings, administration witnesses might wish to offer their testimony with respect to the bill.

I am also enclosing for your information a set of general questions which are being forwarded to prospective witnesses for the first part of the hearings. The witnesses are not being asked to answer specifically any of the questions nor is the list intended to be exhaustive. It is merely intended to be of assistance in preparing their testimony and to put them on notice of some of the issues which the Committee may be interested in discussing in the course of the hearings. A similar set of questions will be prepared for the second set of the hearings, and either I or John Elliff may be in touch with you to solicit your assistance in preparing some of those questions.

I shall try to keep you current on our plans on the hearings.

Sincerely yours,


Patrick Norton

PN:mhp
Enclosure

I. Future developments in U.S. intelligence

(1) What likely trends can one foresee in the subject matter of national intelligence collection? Is it likely, for example, that economic matters will consume in the future a larger proportion of the collection effort than they do now?

(2) To what extent is technical collection likely to supplant clandestine human sources?

(3) What threat is posed to our national interests by the clandestine intelligence activities of foreign powers? Is this threat likely to increase or diminish?

II. Organizational questions

(1) Should the Director of National Intelligence continue personally to head the CIA?

If so--

(a) Will the responsibility for details of CIA operations detract from the DNI's ability to perform his community-wide duties?

(b) Will the tie to the CIA hamper the DNI's ability to judge fairly among the different entities of the Intelligence Community in, for example, conflicting intelligence analyses, research and development priorities, or budgetary issues?

(c) Is it likely that the DNI will, in any event, have to delegate day-to-day responsibility for the CIA to one of his deputies or assistants?

If not--

(a) How large a staff will the DNI need to keep control of the Intelligence Community, including the CIA?

(b) Will the Director's own office not simply constitute just one more bureaucratic layer?

(c) What are the ramifications of making the Central Intelligence Agency no more than one among many entities of the Intelligence Community?

(2) Should it be possible for the DNI to be a commissioned officer in the armed services? Would it be preferable to require that, like the Secretary of Defense, the DNI not have been a

member of the armed services for the preceding ten years?
Or, that any commissioned officer appointed to be DNI have to resign his commission?

(3) S. 2525 would make the DNI an Executive Schedule I, equivalent to a Cabinet-level officer. Is this desirable?

(4) S. 2525 limits the DNI to two consecutive terms of six years each. Is this an appropriate term of office?

(5) Are there any institutional arrangements which would better preserve the impartiality and neutrality of the Intelligence Community from political influence, and the CIA in particular? Would it, for example, be preferable to require that the DNI be a career bureaucrat in the intelligence field?

(6) Is it reasonable to continue the current division of counterintelligence functions among the FBI, the CIA, and the military services? Would it be preferable to vest counterintelligence responsibilities in any one of these agencies? Or, might it be preferable to establish a new agency with sole responsibility for counterintelligence activities that do not involve law enforcement?

(7) Counterterrorism responsibilities are currently also divided among several agencies of the government. Would it be desirable and practicable to centralize these responsibilities in one agency, at least from an intelligence perspective?

III. Interrelationship among the entities of the Intelligence Community

(1) What relationship should the Director of National Intelligence have to individual entities of the Intelligence Community? Will indirect authority such as budgetary and program management controls be sufficient to ensure that all of the entities of the Intelligence Community are responsive to national intelligence needs?

(2) If the Director of National Intelligence is given extensive authority over the individual entities of the Intelligence Community, will this inhibit the independence of, and competition among, those entities?

(3) Is it desirable that the different entities of the Intelligence Community actively offer differing viewpoints on intelligence? If so, how can this be encouraged, and how should the differing viewpoints be reflected for higher level decisionmakers?

(4) What relationship should the DNI have to tactical or departmental intelligence?

IV. Quality of intelligence

(1) Would it be desirable to reconstitute the former President's Foreign Intelligence Advisory Board to oversee the quality of our national foreign intelligence? What institutional improvements could be made over the way that board operated in the past?

(2) What other institutional arrangements might contribute to enhancing the standard of performance and nonpartisanship of our intelligence effort?

V. Covert action

(1) Should the United States continue to engage in covert action abroad? If so, what kind of activities should the U.S. be prepared to engage in and under what general circumstances?

(2) S. 2525 mandates a strict review and approval procedure within the Executive Branch for covert action. Are these requirements unduly burdensome? Are they unnecessarily inflexible or bureaucratic?

(3) S. 2525 also requires notification of the Congress before a particular covert action is initiated. Is this appropriate?

(4) Section 135 of S. 2525 prohibits entirely certain forms of covert action. Are these reasonable prohibitions, or would it be preferable to rely on the process of notifying Congress to guarantee that undesirable forms of covert action are not engaged in?

(5) S. 2525 would make criminal the assassination of foreign leaders. Is it desirable to preclude assassination in any and all circumstances? If so, is this the appropriate way to do so?

VI. Relationships with other government agencies and private institutions

(1) S. 2525 would prohibit using a number of private and governmental institutions for cover. Are these prohibitions unduly restrictive?

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(2) How could cover arrangements for U.S. intelligence officers and employees abroad be improved by legislation?

(3) S. 2525 prohibits paid relationships between the Intelligence Community and certain categories of individuals -- newsmen, missionaries, individuals on government grants, etc. Are these restrictions reasonable and advisable?

(4) S. 2525 would permit voluntary relationships between the Intelligence Community and individuals in the above categories. Is this desirable?

VII. Remedies

(1) Should officers and employees of the Intelligence Community be subject to criminal penalties for transgressions of the law in the course of performing their duties? If so, what sorts of actions should be subjected to criminal sanctions? Should there be special penalties for intelligence officials because of the greater potential for abuse of authority?

(2) Should officers or employees of the Intelligence Community be subjected to civil liability for violations of the law in the performance of their duties? If so, which violations? Or, would it be preferable to have exclusive liability for the government for such violations?

(3) Will administrative sanctions suffice to prevent officers and employees of the Intelligence Community from abusing their duties and responsibilities? Are there additional legislative steps which might be taken to make such administrative sanctions more effective?

VIII. Collection of intelligence

(1) S. 2525 would require that certain exceptionally sensitive clandestine collection projects be subjected to the same review and approval procedures as covert action. Is this right and appropriate?

(2) The bill now allows the President himself to set the standards for which sensitive clandestine collection projects should be submitted to the President or to the NSC for review and approval. Should the bill establish by law criteria for this review and approval procedure?

(3) The bill currently treats the collection of counter-terrorism intelligence as a separate category although in most practical respects it is treated in the same fashion as counter-

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intelligence collection. In what respects does intelligence on counterterrorism resemble or differ from foreign intelligence and counterintelligence? How should it be treated differently? Are foreign counterterrorism liaison contacts by and large different persons from the foreign internal security or other contacts maintained for counterintelligence liaison?

(4) The area of narcotics intelligence involves several overlapping concerns of foreign intelligence and criminal investigation. How should this area be treated in a statute?

IX. Budget

(1) Should the Intelligence Community budget be disclosed, and, if so, to what extent?